

1901-050
Lee Co.

Chancery Causes: Star Clothing & Shoe Co] vs. E. G. Saulsberry & Co]

Allen, Miller, Saulsberry, Moore, Baker, Carter, Burnett,
Kirk, Sprinkle, Jackson

CA-Debt

T-Property
Business

Additional Information:

Stave & ten-bark business

To the Honorable, H.A.W. Skeen, Judge of the Circuit Court for Lee County:

Humbly complaining, your orators, James M. Allen, and A.W. Miller, late merchants and partners in trade, doing business under the firm name of the Star Clothing and Shoe Company, would respectfully represent unto your honor, that E.G. Saulsberry, and R.B. Moore, partners in the stave and tan-bark business, under the firm name of E.G. Saulsberry & Company, in the Spring of 1900, he bought from one G.W. Pennington and others in this county quantities of tan-bark, peeled and to be peeled; that they themselves, and through their agents employed various persons to peel said bark, rick and haul the same to the railroad station at Pennington Gap, Lee Co., Va.; that the said defendants contracted with your orators, who were then conducting a general mercantile business in the town of Pennington Gap, Lee Co., Va., *for them* to hire men *whom they had hired and* and pay off men, who were peeling and getting out to the railroad said bark; that under the foregoing arrangement and agreement, *your orators* did hire men for them and pay off the men who were working at said bark to the extent of several hundred dollars—all of which said defendants have paid your orators, except the sum of \$101.30 which is evidenced by an itemized account herewith filed, marked "A" and prayed to be taken as a part of this bill, and which sum the said defendants fail and refuse to pay to your orators; that said sum and claim for \$101.30 is *are entitled to* just and unpaid to your orators, and they ~~shall~~ recover from said defendants the same with interest thereon from the 29th day of August, 1900; that both of said defendants are non-residents of this State, but have effects therein, and in this county; and that ~~the~~ *your orators* have had made the necessary affidavits under the statutes of this State and here file the same, marked "Affidavits", and pray that the same be taken as a part of this bill.

Now the facts and circumstances set out and stated ⁺ as ~~above~~ *as* aforesaid, your orators are advised, that they are under the laws of this State, entitled to have sufficient of the estate of the said E.G. Saulsberry and R.P. Moore attached and held until the final order in this cause.

The premises considered, your orators are advised that they are entitled to maintain this suit in equity; ~~xxxx~~ that they are entitled to have a judgment in this court for their said debt against said defendants; that they are entitled to have a sufficiency of said defendants' estate attached *to* to pay

said claim of your orators, together with all interest and the costs of this suit; and that they are entitled to have the estate of said defendants so attached sold under the order of the court to pay the said claim, its interest, and costs. The prayer, therefore of your orators are that the said E.G. Saulsberry and R.B. Moore be made parties defendants to this bill of complain; that they be required to answer the same, but they need not do so on oath, as that is waived; ^{to pay said debt, interest & costs of this suit} that enough of the estate of the said defendants be attached, and held until the final order of the court in this cause; that your orators be given judgement for their said claim and interest and the costs of this suit; that an order of publication be made and posted as the law requires in cases of non-resident defendants; and that all other, further and general relief be awared your orators that the nature of their cause and good conscience may require. And they will ever pray, etc. May Spa. issue, etc.

-----Punnington Bros-----P.A.

State of Virginia,

Lee County, to-wit:

This day C.W. Allen, agent for James M. Allen, ~~A.W. Miller, and C.W. Allen~~, late partners intrade under the style and firm name of the Star Clothing & Shoe Company, ~~xxxxxxx~~ ^{about to be} plaintiffs in a certain suit in equity instituted in the Circuit Court for Lee County, ~~xxxxxxx~~ against E.G. Saulsberry and E.B. Moore, partners in the stave and tan-bark business, and doing business under the style and firm name of E.G. Saulsberry & Company, defendants, to recover from said defendants a debt, personally appeared before me a justice of the peace in and for said county and State, and made oath:

- (1). That he verily believes the claim of said plaintiffs is just;
- (2). That he believes that the said plaintiffs are entitled to, or ought to recover at the least, in the said suit, a debt for the sum of one hundred and one dollars and thirty cents, with interest thereon from the 29th day of August, 1900; and
- (3). That to the best of said affiant's belief, the said E.G. Saulsberry and E.P. Moore ~~are~~ not residents of this State, and have effects ~~in~~ or have debts owing to them within the said county of Lee, in which said suit is pending.

Given under my hand this the 9 day of October, 1900.

J. H. Skaggs J.P.

Virginia,

Lee County, to-wit:

This day C.W. Allen, appeared in person before me, a justice of the peace in and for the county and State aforesaid and made oath that E.G. Saulsberry and R.B. Moore against whom there is about to be instituted a suit in equity in the Circuit Court for Lee County, are not residents of this State.

Given under my hand this the 9 day of Oct. 1900.

J. H. Skaggs J.P.

Filed Oct 10th 1900

A B Munsey Clerk

E. G. Sautsbury & Co.

In apt with

Star Clothing & Shoe Co.

1900

July 28	To 154 lbs. corn per Chas. Owens @ 70¢	1 92
Aug 2	" 150 lbs corn " do 70¢	1 88
7	" 150 " " " do 70¢	1 88
10	" 144 " " " do 70	1 80
10	" 85 " Hay " \$1 ⁰⁰	85
15	" Order P.d. " "	3 50
15	" 75 lbs. Hay " \$1 ⁰⁰	75
29	" Order p.d. W. C. Parris	2 10
" 15	" Amk. p.d. Arthur Kirk	5 50
" 17	do	5 20
" 17	"	4 97
" 16	"	5 57
" 14	"	4 35
" 13	"	5 00
" 13	"	5 67
" 13	"	4 57
	To apt of H. K. Sprinkle assigned to us for value	15 00
	To apt. of John M. Carter assigned us	16 50
	To " of H. M. Roberts & Barnette for peeling & making tan bark	14 29
		\$101 20

Star Clothing & Shoe Co

vs } Bies in Chan.

Ed. G. Saulsbury & Co

The joint and separate answer of
C. G. Saulsbury ^{and} R. P. Moore partners in
the stave and tanbark business under
the firm name of C. G. Saulsbury & Co.,
to a bill of complaint exhibited against
them in the Circuit Lee County by
James M. Allen and A. W. Miller late
merchants and partners in trade under
the firm name of Star Clothing ^{and} Shoe
Co., complainants.

These respondents answering say
that

True it is they have bought various
quantities of tanbark, peeled and to
be peeled in this county; that they them-
selves, and through their agents,
have employed various persons to peel,
rick and haul the same to the rail-
road station at Pennington's Gap, Lee
County, Va.

That these respondents ever con-
tracted with complainants to hire ^{men for them} and
pay off men who were peeling and
getting out to the railroad said bark,

and that complainants did hire men for them and pay off men who were ~~putting~~ working at said bark under any such arrangement or agreement to the extent of several hundred dollars, is wholly unfounded and untrue.

There never was made ^{and} never existed between these respondents & the complainants any such contract, arrangement or agreement under which respondents paid any amount as charged in the bill; they owe the complainants nothing whatever under any such or any other agreement or contract and the charge that \$101.30 is due them from these respondents is untrue ^{and} false.

And having fully answered the complainants bill, respondents pray to be hence dismissed with their reasonable costs ^{by them} in this behalf expended, ^{and} they will ever pray &c.

C. G. Salsbury
R. B. Moore

J. H. Gibson p.d.

Star Clothing & Shoe Co.

vs.

Answer

C. H. Faulstich & Co.

Filed in open court and
by leave thereof Nov 12th
1900.

A. B. Munsy Clerk

To the Hon.H.A.W.Skeen Judge of the Circuit Court for Lee County Virginia.

The supplemental answer of E.G.Saulsbury and R.B.Moore, partners in the stove and tanbark business, under the firm name and style of E.G.Saulsbury and Co. to a bill of complaint exhibited against them in the circuit court for Lee County, by J. Allen and ~~R.R.Moore~~ A.M. Miller, partners in trade under the firm name of "STAR CLOTHING AND SHOE CO.", complainants.

For further answer to said bill, answering, respondent says:-

That they have overpaid the complainants the sum of dollars which payment was made to complainants by mistake; that complainants when their notice was called to the mistake promised to repay the said amount in the future settlements of their accounts; that the respondents trusted them to repay said amounts in the settlements that took place after the payment was made; that complainants wholly failed to repay said amount when the settlements were made, which fact was not suspicioned and was wholly unknown to the respondents until after their answer was filed and evidence taken.

Respondents state that the said amount of dollars was due them at the time and before this suit was matured, and that the only reason why said amount was not mentioned in the original answer is the fact that it was unknown to the respondents that said amount had not been re-paid in the final settlement ~~xx~~ between the complainants and respondents.

Respondents therefore pray that this their supplemental answer be filed in the case; that the said amount of dollars be adjudged, ordered and decreed to be, and allowed as, an off-set against the amount claimed by the complainants, should anything be adjudged to be due them by this court upon a final hearing of the cause, which is not admitted by respondents; that this court so adjudge, order and decree that judgment over against complainants for the

the said amount of dollars,as well as the costs of this case,
be given in favor of these respondents,in case this court should
find that nothing is due them under that ~~original~~ allegations in
their bill,and as is contended by respondents.

And having fully answered said bill,respondents pray to be
hence dismissed with their reasonable costs etc.and they will ever
pray.

E. J. Paulsberry
A. B. Moore,

By J. H. Gibson, for d.

E. G. Saulsbury & Co.
ads ³ Supplemental Answer

Star Clothing & Shoe Co.

Filed February 28th 1901

A. B. Munsey Clerk

Star Clothing and Shoe Co..

Pl'ffs.

v.

E.G.Saulsbury and Co.

Def'ts.

This cause came on again this day to be heard upon the papers formerly read herein and was argued by counsel. On consideration whereof, and it appearing to the court that the whole amount of the judgement, with costs, formerly entered herein has been paid by the defendants, it is adjudged, ordered and decreed that this cause be stricken from the docket.

Men Clothing & Shoes
13 Deere Finial
E. G. Danabury, Geo

Entered on C. B. 6
P. 534.

Enter this

H. A. W. H. W.
Mch 12th 1901

Star Clothing & Sho Co.

vs

E. G. Saulesberry & Co.

This cause came on this day to be heard upon the bill of the Complainants and exhibit filed therewith, the answer and amended answer of the defendants, and general replication of the Complainants to said answers, the depositions of witnesses for both the plaintiffs and defendants,

and was argued by counsel for both parties; On consideration of all which, and for reasons appearing to the Court, it is adjudged, ordered and decreed that said Complainants recover from said defendants the sum of \$101.30 with interest thereon from the 29th day of August 1900, till paid, and the costs of this suit.

and they are hereby directed to pay the same to said Complainants, and this cause is continued.

For reasons appearing to the Court it is further adjudged, ordered and decreed that said Complainants had lawful grounds to seek out ~~an~~ attachment in this cause, and by reason of the ^{boying} ~~service~~ of such attachment

by J. P. Ealy deputy Sheriff for Lee County, said Complainants have a lien on the property of the defendants so attached by said deputy sheriff to wit: "on a quantity of dressed staves in Lee County in Pennington Gap, and estimated at 7000", It further appearing to the court that said defendants gave to the officer levying said attachment which the said officer returned to the Clerk of this court and the same was filed in the proceedings of this cause, with one Olin C. Gibson as surety, wherein among other things the said ~~of~~ obligors to said bond bound themselves to perform such decree as might be rendered by the court in this cause, it is therefore adjudged, ordered and decreed that the said defendants and Olin C. Gibson surety on said bond, ~~and~~ taken in this proceeding on the 23 day of October 1900, do deliver to the said J. P. Ealy deputy Sheriff of Lee County, so much of the property attached on in this cause, and returned to the said defendants, at Pennington Gap Lee County, Virginia, at 12 o'clock noon on the 2nd day of April 1901; and

the said deputy sheriff will then proceed to ~~sell~~ the same, or so much thereof as shall be necessary, to satisfy the said recovery of the said sum of \$101³⁰ its interests, and costs of this suit, and the costs of the sale thereof.

And he will report his proceedings to Court.

It is further adjudged, ordered and decreed, that if said defendants fail or refuse to pay said recovery its interest, and the costs of this suit; or or before the said second day of April 1901, and shall also fail or refuse to deliver said property so attached on, to said deputy sheriff at Pennington Gap Lee County, Virginia on or before 12 o'clock noon on the 2nd day of April 1901, a rule is hereby awarded against said defendants and the said Olin C. Gibbons, returnable to the first day of the next term of this Court, to show cause if any they can, why judgment shall not go against each and all of them for said \$101³⁰ with the interest thereon and the costs of this suit.

Star Clothing & Shoe Co.
vs. Decree.

E. G. Saulsbury & Co

Entered on
C. B. No 6. \$77

Enter this

March 1901

H A W Stur

Star Clothing ^{And} Shoe Co.
vs
E. G. Saulsbury } Inchy.

This cause came on this day to be heard upon the complainants bill, exhibits and papers filed therewith ^{and} was argued by counsel. On motion, leave is granted the defendants to file his answer, to which the plaintiffs reply generally, and the cause is continued.

E. G. Saulsbury & Co
ads & answers

Star Clothing & Shoe Co.

Entered our library
O. B. No 6 Page 460

Enter this
H. A. W. Shum
Nov 12th 1900.

\$ Star Clothing & Shoe Co.,
vs
E. J. Saulsbury & Co. } In Chancery

This cause came on this day to be heard upon the complainant's bill, exhibits and papers filed therewith and was argued by counsel. On motion, leave is granted the defendant to file his answer, and the cause is continued.

Star Clothing & Hat Co.,

101 N. 1st St. St. Louis, Mo.

Entered on ship
O.K. 6. P.P. 445-

Enter this

HAWAII

Dec 12th 1900.

The deposition of E. G. Saulsbury ~~J. L. Baker~~ taken before me A. G. Hyatt, a Notary Public in & for the County of Lee & State of Virginia, at the store of J. B. Gibson & Sons in Farmington Town, in said County of Lee on the 6th day of Feb. 1901, by agreement of parties plaintiff & defendant to be read in evidence in behalf of the defendants in a certain suit depending in the Circuit Court of Lee County, Va. wherein J. M. Allen & A. M. Miller, Late merchants & partners in trade under the firm name of "The Star Clothing & Shoe Co." are plaintiffs and E. G. Saulsbury and J. M. Moore partners in the slave & lambert business under the firm name of E. G. Saulsbury & Co. are defendants.

Present: J. C. Naeff For plaintiffs.
" J. B. Gibson " defendants.

E. G. Saulsbury, a witness of lawful age, first being duly sworn, deposes & says:

Ques. (1) What is your age, residence & occupation?

Ans. I am 33 years old, residence Eminence, Ky, occupation, slave business, farming &c.

Ques (2) What connection have you with this suit if any?

Ans. I am one of the defendants.

Ques
(3)

If you or E. L. Sautsbury Co. owe the Star Clothing & Shoe Co. anything state what it is?

Ans.

I don't owe them anything at all as their account was paid in full about Aug. 10 th. to 20 th. 1900. by draft drawn by C. W. Allen with the orders & store tickets attached.

Ques-
(4)

Please state when you first paid pliffs anything, as near as you can, for whose benefit and at whose request? And state any conversation that occurred between you & pliffs when said ^{first} payment was made?

Ans.

The first payment I made to pliffs was in June 1900 I think. I paid Mr. J. W. Baker's account off in full at the J. W. Baker's request; which payment was charged to J. W. Baker's account on my books. I told Mr. Mark Allen to never charge anything to J. W. Baker expecting me to pay it again. What store tickets he cashed of mine and back tallies signed by J. W. Baker & what orders given by Baker for work done on the yard he could charge to my account and make drafts or I would send him checks whenever he got \$200 or \$300

dollars worth on hands. I charged Mr. Woot Allen very particular that I would not be responsible for any of J.W. Pennington's orders or anyone on the outside; for I was afraid Pennington was going to come up short.

Ques 5.

How long after you made the payment above referred to did you move your business away from the plaintiff's store and why did you move your business?

Ans.

I moved the business away from their store about the 1st of August. I went to their store about the 18th day of July to settle up with them at that time and I found Mr. Miller at the store instead of Mr. Allen & he told me that Mr. Allen was away & I told him to make drafts for all my account & orders & store tickets he had on hands and he made the drafts a few days afterwards of \$460.00 I think. I gave them checks of \$54.00 & something to square the book account, but said at the time that Mr. Woot Allen had some of the tickets in his pockets & he did not know where

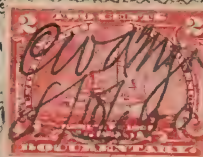
just after the \$60 draft was made I think it was.

they were). I was up a short while afterwards, about Aug 1st, & notified Mr. Miller, the young gentleman who was in the store, not to pay any orders off against me don't matter who they are signed by as I had transferred my acct to Mr. Gibson & Sons, & I also saw Mr. West Allen on the yard the same day & I also notified him. And I also went to Mr. J. W. Baker, the man who was working for me on the yard & told him to send all the store tickets & back tickets to Gibson & Sons as I had closed my account with the plaintiffs & I wanted all the business transacted at Gibson & Sons instead. I moved my business because I didn't think I had been treated fairly by Mr. West Allen.

Ans (6)

When you notified Mr. Miller & Mr West Allen as above & the statement was made concerning Mr. Allen's having tickets in his pockets &c. if any directions were given by you concerning the tickets Mr. Allen had

RENNINGT



BANK.

1900

Sp, Va. August 10 1899

Pay to the order

of Our selves
Two Hundred Sixteen $\frac{20}{100}$ Dollars,

For apd orders paid, stored & Bot

Value received, and charge to account of

To E. G. Salsbury & Co, Shoe Clothing, & shoe Co

Not x x Emmence & Co By C. W. Allen

Star Clothing & Shoe Co

PAY

Deposit Bank, Eminence, Ky.

LOUISVILLE NATIONAL BANKING CO,
LOUISVILLE, KY.

JOHN H. LEATHERS,
Cashier.

No. 4327

PAID TO THE ORDER OF
J. H. LEATHERS,
JUNIOR, Eminence, Ky.
W. S. WILSON, Cash'r.

please state what those directions were & the results?

Ans.

I directed Mr. Miller to have Mr. Allen to get all of his tickets & tallies up and draw a draft on them into the office at Eminence, Ky. which he did & the draft amounted to \$216 or something, the draft was paid between was paid between the 10th and 20th of Aug. 1900. Which draft I have filed and make part of this deposition.

(Que 7)

When were you first notified of this account here sued on, (what was said at the time)?

Ans

I think about Oct 1st 1900 Mr. West Allen ask me if I was going to pay J.W. Baker's account. I told him, I was not; then he says I have an account against you; And I asked him "let's see it" & he got his book and looked at ~~defendants~~ ^{defendants} acct & said that their account was square & he turned to J.W. Baker's account & told me he expected me to pay it, which I refused to do. I stepped out to see Mr. Baker & told him that Mr. Allen had an account against him for \$50 or \$60 & wanted me to pay it and he replied

back saying that he had an account about the same size against them. And I told him that he had better go ahead & settle it up as I didn't want to be damned for somebody else's account.

The foregoing answer so far as it details the conversation had by the witness with J. W. Baker, ~~and~~ not in the presence of C. W. Allen or the plaintiffs, is ~~accepted~~ to because self-serving and hearsay.

J. C. Noel for Plffs.

Ques (8)

Why did you refuse to pay the account mentioned above?

Ans

Because we don't owe it.

(Ques 9)

I notice in the depositions taken for plffs in this case that it is stated that the defendants had a team ~~used~~ in Pennington Gap that was driven by Chas. Owens for said defendants. and also notice items charged to defendants for corn & hay gotten for said team for by said Owens. State if ~~the~~ what you know in regard to the team & items referred to.

Ans.

I did not own any team at that time at Pennington Gap. I accepted a team from J. W. Baker along about Sept or

October & credited his account with it for \$130.00.

Ques 10. Who owned the team before you accepted it from Baker & gave him credit for it, if you know?

Ans I don't know unless Baker owned it himself. He told me he had bought it for another party & taken it back. I don't know who the party was.

Ques 11 In the plffs deposition taken in this case it is stated that Mr. J. W. Baker directed Mr. C. W. Allen to let Chas. Owens have hay & corn to feed the team with that was mentioned above. Please state if Mr. Baker had any authority to have such corn & hay charged to defendants or to buy horses, hay & corn for defendants.

The foregoing question and any answer thereto is objected to because leading and suggests the answer desired, by its recital of what is contained in Plffs depositions.

J. C. Noel for Plffs.

Ans No sir.

Ques 12 What was the authority ~~did~~ Mr. J. W. Baker have as agent for defendants at Pennington Gap during the ~~year~~ Spring & Summer of 1900.

Ans

He was working for defendants ^{on a salary} for so much a month. He was to buy & inspect staves & he was to furnish ~~us~~ with what bark was delivered at this station at \$6.00 per cord of 2400#, which ~~we~~ ^{we} were to pay for through ^{him}; but ~~we~~ were not to be responsible for any contracts he made ^{and} advanced money out on, as I advised him at the time that it wouldn't do to advance money on tanbark. Mr. Baker has credit for every cord of bark that was shipped from this station & he is charged with all he ^{advanced} ~~charged~~ out & lost which amounts to \$300/\$400. And he says he has brought suit against J. W. Pennington for the amount advanced & charged to his account.

The foregoing answer is objected to so far as it relates to advice given by defendants to J. W. Baker concerning tanbark, because immaterial, and so far as it relates to the charges against J. W. Baker for losses on tanbark, and what J. W. Baker said about having brought suit against J. W. Pennington, because self-serving and hearsay.

J. C. Noel for Plffs.

Ques. 13

If the defendants have ever held out to the Public generally or to private parties that J.W. Baker had authority to do anything further than buy & inspect tanbark & staves at Pennington Gap, ^{for them} state ~~what~~ when and how they did so?

Ans.

They never did at any time.

Ques 14

If you ever stated to Mr. ^{Woot} Allen that the defendants would take all the tan bark he could get outside of your own contracts ^{out side of} or contracts made for defendants by J.W. Baker, state when & where it was?

Ans.

I don't remember of ever having any such conversation at all. ~~As~~ Mr. Allen was speaking to me to day in regard to it.

Ques 15

If Mr. Baker ever had authority from defts, or was so held out by them, to buy horses & contracts ~~defts. or to buy horses & contracts~~ ^{for them}, state about it?

Ans.

No sir.

X Examination.

Ques (1)

Who had the authority to load and ship your staves at Pennington Gap, during the Spring, Summer and early autumn of 1900?

Ans

Whenever I had an order for any thing, I instructed the man I had here, to load it.

Ques 2

What Man generally received and executed such instructions?

Ans.

Mr. J. W. Baker, Mr. D. S. Forester
Mr. B. B. Moore and Bob King.

Ques. 3

Is it not a fact that J. W. Baker received and carried out such instructions generally?

Ans

He did whenever he was here and was ordered to do it.

Ques 4

While loading said stoves, did J. W. Baker not have the authority to employ men and teams, to convey said stoves to the cars, for defendants?

Ans

Yes Sir.

Ques 5

Did not the team mentioned in your deposition in chief work for the defendants on their yard while said stoves were being loaded?

Ans

Not to my knowing! It may have worked some.

Ques 6

Were the defendants ever charged for the use of said team while

Ans working on said yard? if so by whom?
Nat- as I know of?

Ques. 7 If said team was used then
on said yard, did not the
defendants get the benefit of such use?

Ans If the team was so used, and
its time was not sent in, of course
the company got the benefit of it,
and Mr Baker should have ~~received~~ credit.

Ques. 8 Did the defendants give Mr J W.
Baker credit for the use of the other
teams engaged by Mr. Baker to
work on yards at Pennington Gap
and at Crab Orchard, and for hauling
staves from the Crab Orchard, or did
~~you~~ ^{they} pay for the use of said teams
on the orders of said Baker?

Ans I think they were paid for by order.

Ques. 9 Did J. W. Baker get credit for the
~~work~~ work of said team, while at the
work in the Crab Orchard, and on the
Yard, and for hauling from there?

Ans I don't think the team worked on the yard
there, and Baker claims he got no credit.

for it, and I don't think myself that he has had:

Ques 10

When you changed your place of business from the plaintiffs store to the store of J. R. Gibson and sons, did you notify the plaintiffs, or their manager C. W. Allen, or N. C. Miller that you were making or intended to make the change?

Ans

Yes sir, I notified both Mr C. W. Allen and Mr N. C. Miller, but not together. I notified Mr. Miller while Mr Allen was gone to Cincinnati, and I am not certain that I notified Mr. Allen until I had changed it.

Ques 11

When and how did you notify Mr. C. W. Allen?

Ans

On the yard at the time I told him to make draft, and attach all the tallies he had in his possession, and he made draft on us between the 10 & 20 of August with orders, store and bank tickets attached.

Ques 12

Prior to the time Mr. Allen made draft on you, that is prior to Aug 10, 1900,

Did the defendants not pay off all
bark tallies presented them by the
plaintiffs, signed by J. W. Baker?

Ans

If there were any signed by J. W.
Baker they were paid off?

Ques 13

Did not a large part of the indebted-
ness which you claim to have paid off
to the plaintiffs that is did not a
considerable part of the business transactions
of the defendants, with the plaintiffs
arise from the bark tallies which ~~the~~ were
given for the bark purchased by J. W. Baker
for the defendants?

Ans

Yes a considerable part of it?

Ques 14

Did not the plaintiffs accept alike
both bark and stove tallies, and
did not the ~~plaintiffs~~ ^{defendants} pay off to the
plaintiffs alike both bark and stove
^{for bark and stove} tallies which had been purch by J. W. Baker.

Ans

Yes sir: But I told Mr. Allen to keep
the bark and stove account separate, but he did not.

Ques 15

Did you ever notify the plaintiffs
that Baker did not have the same
authority to to purchase bark ~~the defendants~~
as he had to purchase stoves for defendants.

I told Mr. Allen that the bark came through

Mr. Baker, and if there was any loss
Baker had to bear it, and I would not
be responsible for any goods he advanced
out on Bark for Baker, as I only paid
Baker \$6⁰⁰ per cord of 2400 lbs. f.o.b. cars.

Wes. 16

Did you not tell Mr Allen that
he must charge both the bark and
stove rollers ^{is you} if he expected you
to pay ~~for~~ them?

Ans

I told him to charge them both to
me, but to keep them separate; this
was done that all ~~the bark that~~ ^{that} was paid for bark
was to be charged to Baker's account -
by my bookkeeper. The bark was
Baker's business, and we were to pay
only for bark which was actually brought
in and shipped. Whenever any bark was
delivered at Pennington Gap and inspected,
we assumed the payment for the
rollers given therefor, but we were not
to pay for ^{or} be responsible for bark contracted
for by Baker and not delivered.
But any deals made by Mr. Baker with the
plaintiffs after about Aug 1st 1900, after
I had notified the plaintiffs, I was not
to be responsible for?

Ques 17 Did you not some time between the 1st and 20 of July 1900, ask Mr. W. Allen, to employ teams to haul out the G. W. Pennington bark, or a part of it and did he not in your presence speak to N. L. Sprinkle, A. J. Jackson and others, to get them to haul said bark?

Ans I have no remembrance of getting Mr. Allen to do any business, I quite often asked Mr. Allen why those people did not get the bark out; he said he guessed it was because they had no teams. I said I believed I would look around and try to get some teams. he said he would go with me. We saw three or four different parties, they were all strangers to us, but I don't think we got any of them to agree to haul, I think this time was in June instead of July.

Ques 18 Did not Mr. Allen afterwards get some of these same parties to haul part of the said bark; with A. J. Jackson, N. L. Sprinkle and J. M. Cotton, and did you not pay them?

for the bark, which Jackson hauled
and refused to pay for the hauling
done by ~~Jackson~~ Sprinkle and
Carter?

Ans.

I never refused to pay any hand bills
presented by Mr. Allen when he had an
order for them. The only account I ever refused
to pay the plaintiffs was a personal
account of J. W. Barker, which they wanted.

Does

~~Did Mr. Allen~~ me to pay, that was made
by him after the ²⁸ day of ~~August~~ ^{July 1900}?
Three items in the plaintiffs bill of
particulars, have ~~have~~ never been presented
to me for payment, to wit: the accounts
of H. L. Sprinkle for \$15.00, J. M. Carter \$16.30
Roberts and Barnell, \$14.29, and I never heard
of them before.

Does 19

Did not C. W. Allen show you the
items you mention in your preceding answer
in the town of Pennington Gap, on the
sidewalk near Gibsons store, and also
in J. W. Bakers office, say in August, 1900?

Ans

No sir.

Does 20

And did not refuse to pay the said items
because they were not "oked" by D. E. Forester?

Ans I did not; I had not seen them.

Ques 27 At the time you were together in J.W. Baker's office ^{about Sept-1st-1900} did not G.W. Allen show you the whole account sued on, and did you not point ^{out} some items such as shoes and clothing which J.W. Baker had gotten for his own use, and did you not check off said items for shoes and clothes, and say that you were not shoes and clothing Baker, and that the plaintiffs would have to look to Baker for those articles?

Ans No, Sir.

Ques 22 When you paid tallies for bark, to peffs. what price would you pay them for said bark per cord?

Ans. I would pay them six dollars per cord.

Ques 23 If Baker received only \$6⁰⁰ ^{per cord} and you paid on the bark tallies \$6⁰⁰ per cord, what did Baker get for buying said bark?

Ans He had a salary from me.

Ques 24 Then should you not pay for all the bark you received, which Baker contracted for

Mr.

to the parties he purchased if from?
Objected to because argumentative.

Ans.

If we received any bark which we have not paid for already, we should pay for it of course, but we have paid off every tally that was presented to us, which had been signed by any of our men.

Tues. 25

If you received the bark from the plaintiffs to the amount of the items charged in the plaintiffs bill of particulars as amounts paid A. S. Parris and to Arthur Kirk, should you not pay them. therefore, if you have not already done so?

Objected to because hypothetical & argumentative.
Certainly, I should.

Ans

Tues 26

Under your contract for bark with J. W. Baker, are not the haul bills for all bark which the defendants received proper charges against the defendants?

Yes sir: at the prices were paying.

Tues

~~Why not?~~

And further this deponent saith not
A. G. Salisbury

Virginia Lee County, to wit
The foregoing deposition
of Elj Sautsbury was duly
taken, subscribed and sworn
to, before me at the place
and for the purpose mentioned
in the caption.
Given under my hand
this 6th day of February, 1901.
Alfred H. Katoz, Pub-
lic County Va.

Stor Clothing & Shoes
N. ~~Y.~~ Deposition
Elphinstone & Co.

Feb 23 / 1901

Received by mail in
good condition & filed
February 28th 1901.

A. B. Munsey Clerk

Cost:—
Notary Fee 25¢

The Depositions of J. W. Baker
taken before me A. G. Hyatt, a Notary
Public in & for the County of Lee in
the State of Virginia, the 1st day of March
1901, at the office of E. W. Pennington, in
Pennington Gap, Va., by agreement of
parties, to be read in evidence in be-
half of E. G. Lanes the defendants in
a certain suit depending in the
Circuit Court for Lee County Virginia, in
which J. M. Allen & A. M. Miller, partners
under the firm name & style of
Star Clothing & Shoe Co. are plaintiffs &
E. G. Lanesbury & R. B. Moore, partners
in the stove & tankard business are
defendants.

Present: T. H. Gibson for defendants
" E. W. Pennington a plffs.

J. W. Baker a witness of lawful age
after first being sworn deposes & says:

Ques. 1. What is your age, residence & occupation?
Ans. 1. If you ever had any connection with
the firm of E. G. Lanesbury & Co. state when
& what it was.

Ans. Yes, I was their agent at Pennington

Gap during the year 1900.

Ques 2. If the defendants ^{never} paid the plaintiffs any amount that they were not liable for state where or what it was.

Objected to because question asks him a conclusion of law & not facts. It is not for witness to say whether defendant is liable or not on any payments made by plaintiffs for defendants. ^{Bennington for defts.}

Ans. About July 2nd 1900, the amount was about \$50.00. There was a small credit of about \$5 or \$7.00.

Ques 2 in plffs. If you ever called defendant's attention ^{present} to the fact that they ^{defts} had paid plaintiff any amount that you had notified plaintiffs you would not stand for for defts to state where it was and what the amount paid was.

Ans On July 2nd 1900; the amount was about \$50 which ^{should have been} ~~which~~ credited with \$5 to \$7. In other words after the account settlement in July Hughes delivered back to the amount of \$5 to \$7 dollars which should

Ques 3 ~~Ques 3~~ be credited on the \$50; but this sum was not nor has not been paid to the plaintiffs, which according to my account would make the defts. have paid the plffs on Hughes' account from \$43 to \$45 too much.

Ques 3 State ~~at~~ any conversation that took place between plffs & defts at the time when you called attention to the overpayment as above stated.

Ans. I don't remember.

Ques 4. State how the mistake happened, if you know.

Ans. This amount was brought in as though I had authorized the way, I suppose it could have been done I suppose plffs to make the advancement.

Ques. If you had ever notified plff ~~that~~ ^{before} for defts, that you would not stand good for advancements made to Hughes, state how in what manner it was done & when it was.

Ans I told them I would not stand for ad-

advancements made to Hughes. I don't remember what time it was; but it was after the account had been started.

Ques 5. Did you ever tell Piff you would stand for advancements made to Hughes for debts?

Ans No sir.

Ques 6. If plaintiff ever said anything about paying back the above amount or ~~or~~ about making it up ^{to debts}, state what it was?

Ans Mr. Wort Allen just remarked that he would stand for that.

The answer objected to because the promise or undertaking made by Wort Allen is not obligatory upon the ~~def~~ Piff.

Ques. 7. ~~Was the~~ If the above amount ~~has~~ ever been re-paid to debts state how?

Ans I don't know as it has or has not been paid. It has not been paid to me for debts.

Ques. 8

In your dealings with plaintiff after the debt's business was moved from plff's store what was ~~your~~ understanding between you & plff's as to the what would be used to offset the account you continued after said business was moved?

Ans.

After the business was moved the reason why I continued doing business was requested by the plff. that he might collect some debts which he had advanced on barch, and such account made to be paid by defendants.

Ques.

~~And~~ If you had anything ^{on your books} with which to offset the account filed with plff's bill state what it was?

Ans

I relied upon this of overpayment of \$43 to \$45 to come in the final settlement between plff's & defts.

X E4

Ques. 1

Do you know how much bark J. P. Hughes delivered at Pennington Gap in 1900, and which was

gotten by Saultsbury & Co. & if
so how much?

Ans. I can't tell exactly, unless
I had all the books of tallies.

Ques. & Did defendants get all
the timber, which J.P.
Hughes delivered to Sumner
Gap in 1900.

Ans. They did so far as I know.

Ques. Were you present when
Saultsbury settled with the
plaintiffs on July 2nd 1900.

Ans. I was.

How much if any sum,
was counted in and paid
to the plaintiffs on J.P. Hughes
account at that time?

Ans. I don't remember, but
about \$119⁰⁰

Ques. At that time what was
said if any thing about this
payment?

Ans. After it had been made,
I called attention we were
not to stand for that account
and North Allen said, he

Ques.

would stand or stand good
for it. That Hughes had
lots of bark; that he had
been in the mountain and
had seen his bark and ^{he had} an
amount sufficient to
pay the balance of the \$119.

Ans.

At the time this payment
was made how many
dollars worth of bark
had J. P. Hughes already
delivered in Summington
Gap and had been taken
up by Salisbury & Co?

Ans.

There was from \$65 to
\$70 worth, and as stated
in my examination in
Chief Salisbury & Co paid
about \$38⁰⁰ more than
the Hughes bark would cover
to up to that time.

Ques.

After this payment of \$119⁰⁰
did J. P. Hughes deliver to
the defendants any more tan-
bark if so how much?

Ans.

He did deliver some
but I don't know how much.

I think I took up some
twenty-odd dollars worth,
and S. S. Foristers books,
which I have seen, show
that he took up from \$15⁰⁰
to \$17⁰⁰ worth.

Ques.

After the \$119⁰⁰ was paid
by Saulsbury & Co to said
Allen, is it not a fact,
~~to~~ the tan-bark which
J. P. Hughes delivered after
that date, was paid him
again for at J. R. Gibson
& Sons store by Saulsbury & Co.

Ans.
~~fact~~

It was all paid for at
Gibson & Sons store, that
he delivered after the
\$119⁰⁰ was paid plaintiffs
except \$5 to \$7⁰⁰ and some
\$3⁰⁰ cash, so far as I know.

Ques.

Do you know how much
Gibson & Sons paid Hughes for
bark brought in
after the \$119⁰⁰ was paid?

Ans.

I don't know, but I think some
\$40⁰⁰ or more.

Ques. At the time the \$119⁰⁰ was paid, had defendants changed the place of account from plaintiffs to Gibson & Sons?

Ans. They had not.

Ques. In counting in the Hughes \$119⁰⁰ account and paying the same was there not ten per cent discounted? In other words, did he not only actually pay \$108. and some cents.

Ans. There was ten per cent discounted from this account.

Ques. Then as a matter of fact, the defendants knew, when they paid Hughes, at Gibson & Sons store, for the bark delivered after the \$119⁰⁰ was paid, they had previously paid to plaintiffs for the same bark.

Objected to because hypothetical and argumentative, and is therefore a mere conclusion which should be drawn by the court.

J. H. Gibson for def.

Ans. They knew that \$119⁰⁰ had been

by them on
paid Hughes ~~on~~ bark, at the
time they paid Hughes at
Gibson & Sore's store.

Ques.

At the time Hughes brought
in the bark after the \$119⁰⁰
was paid, did not the defend-
ants know they had paid
the plaintiffs the sum of \$119.
and had not received from
Hughes bark sufficient
to pay off the \$119⁰⁰?

Ans.

They did.

Ques.

While Hughes was bringing in
the bark after the \$119⁰⁰ was
paid, and he being paid for
the same at Gibson & Sore's store
did you or any one else
notify the plaintiffs or
their agent what was being
done in respect to such
deliverances?

Ans.

No, no notice was given
them.

Ques.

At the time, perhaps on
July 2nd, 1900, when Soudbury
gave the plaintiffs a check

for about \$509.00, ^{did} ~~that the not.~~
knew then that J. P. Hughes'
account was included
in that amount?

Ans. I don't remember; but it
was talked about at that
time and before they parted.

Re-examined).

Ques. ~~Who demanded for~~ If any demand
was made for payment for bank
brought in ~~a take-out~~ by Hughes
after the \$119 payment above was
made state what the demand was.

Ans. ~~He called~~ Hughes called on me for
payment saying he would
have to have money for
expense).

Ques ~~Did you ever mentioned the over-~~
~~payment above set forth to him~~
~~state what was said?~~

Ques

~~When~~ If you know, state whether the \$509 check above mentioned was paid to plffs before or after the Hughes bark was mentioned on July 2nd 1900.

Ans

I could not say.

Ans further this deponent saith not.

J. W. Baker

The following depositions taken also by consent on March 2nd, 1901 for the plaintiff.

C. H. Allen another witness after being duly sworn deposes as follows:

Ques 1.

In the Spring or Summer of 1900, state whether you bought any tan-bark of one J. P. Hughes. If so, what did you do with it?

Ans.

I did buy for the plaintiffs

said J.P. Hughes tow-bark, and
let the defendants have it
through J.H. Baker, their agent.

Ques.

State whether or on about
July 3rd, 1900, said E.L. Sauls-
berry was in Seemington Gap, and
made a settlement with you,
and paid you any money,
drafts or checks?

Ans.

He was here about that time
and we made a settlement and
he gave me a check for \$509.
and some cents.

Ques.

~~Did said payment of \$500~~ At
the time you and said Sauls-
berry settled, had you paid
J.P. Hughes any thing on the
bark you had bought from
him, if so about how much?

Ans.

I had paid him \$119. and
some cents. I believe it was
\$119.73.

Ques.

At the time said Saulsberry
paid you the check for \$509.00
was ~~the~~ your payment to said
Hughes included in it?

Ans.

The \$119.00 was included in

said check, less two per
of the \$119.73.

Ques.

At that time had
said Hughes delivered to
you, and you to the defend-
ants any tax bark, if
so about how much?

Ans.

Hughes had at that time
brought in from \$60 to
\$70⁰⁰ worth of bark.

Ques.

If at the time the \$509.00
check was given any thing
was said between you and
Saulsbury about the future
delivery of the Hughes
bark, please tell what
was said as near as you
can.

Ans.

That morning Saulsbury
came and said he wanted
me to get up my account
and he would pay me;
and wanted to know how
much I had, against him
on the bark business. I told
him I couldn't tell till I

run up my books. She took
my books to look at the
accounts himself, and in
looking over my accounts
he saw J. P. Hughes' account,
which was for bark, and he
remarked and said he had
no contract with Hughes
for bark, and asked how
much bark he had de-
livered at the station at Pen-
nington Gap. I told I didn't
know exactly, till J. H. Baker,
came in. He wanted to pay
only for the bark which
Hughes had there brought to
the station at that time; I told
him I had been to see said
Hughes' bark in the mountain
the day before ^{and} looked over
it, and knew he had enough
to pay the \$114.00, and I would
see he brought in enough
at the station at Pennington
Gap. to pay the full \$119.00,
and he included Hughes' account
in the check.

Ques

Did Hughes afterwards bring out to the station at Pennungie a sufficient bark and turn it over to the defendants, to pay off the balance of his account-?

Ans

He did.

The foregoing question & any answer thereto are objected to because ~~that~~ ~~it is not asked~~ any bark that Hughes may have delivered to defendants that was not delivered in the name of & for the plaintiffs is immaterial & irrelevant.

J. H. Gibson, for defts.

Ques.

After the defendants had paid to you Hughes' account; did they ever notify you that they were paying Hughes for the bark which he was delivering to them?

Ans

They did not.

After the defendants had paid you Hughes' account; and while Hughes was still delivering bark to them did you know that the defendants were paying Hughes

for the bark at Gibsons' store?
 The foregoing question & any answer
 thereto are objected to because immaterial.
 T. V. Gibson for defts

Ans I did not.

Ques Was the bark which you contracted for
 from Hughes for the plaintiffs, and
 which you let the defendants have,
 to be delivered directly to you by Hughes,
 or was it to be delivered by him
 to the defendants, and how was
 the same delivered?

The foregoing question & any answer thereto
 are objected to because any contract
 between Hughes & plffs, to which defts.
 are not parties is immaterial &
 irrelevant. T. V. Gibson for defts

Ans The bark was to be delivered by
 Hughes to the defendants, and it
 all was delivered to the defendants
 directly.

Ques Did the defendants ever notify you
 that they had changed their place of
 business from the plaintiffs' store to

the store of J. R. Gibson & Sons?

Ans.

They never did?

Ques.

Did you ever present the account
sued on to the defendants for payment
and if so, to which member of the
firm did you present it?

Ans.

I presented the account to E. G.
Dundesberry one of the defendants
and he refused to pay it:
saying at the time that he had
not enough money up here and
was not going to pay it.

Ques.

Had said Hughes any other
bark outside of what you
bought from him?

Ans.

He did not have any other.

Objected to because
immature and because no-
tice of such fact was not
brought home to the defendants
Gibson.

Ques.

Said not the defendants or
their agent J. H. Baker know
you had bought all of said

Hughes tow-bark for the year 1900.

Ans. Salsberry knew himself as well as Baker that I had bought all of said Hughes' tow bark.

Ques. Objected to because leading circumstantial

Gibson

Ques. Did said Salsberry or said Baker know that you had bought all of said Hughes' tow bark, at the time he paid you the \$109.00?

Ans. Objected to because immaterial Gibson for diff.

Ans. Said Salsberry did know at that time I had made a contract with said Hughes for his bark.

X-examination

Ques. Have the plaintiffs ever made up the \$43 to \$45 paid them by defts July 2 or 3rd 1900 in their settlements?

Ans. It was paid by Hughes in bark.

Ques

Did plaintiffs ever notify defts. that the bark Hughes was delivering after the \$119XX was paid was plff's bark? And did they with Hughes consent deliver the bark to defendants in the plaintiffs name & as the plaintiffs bark?

Ans.

No, because they already knew it.

Ques

How do you know they already knew it & can you say that Hughes did not deliver the bark in his own name & demand payment for it?

Ans.

I know they knew it because they paid me for Hughes' bark & I told them I would see that he brought in enough to pay the oversplus of his account that they had overpaid plffs. Hughes delivered all the bark in his own name

(19)

I cannot say that Hughes did not demand payment for it. It was not his bark to demand pay for I had already bought & paid him for it & Danlowsbury & Co. knew it & Baker as his agent knew it.

Ques. ~~Did plaintiffs~~ How can you say that plaintiffs bought the identical bark Hughes delivered to defendants ^{do} you know that the ~~bark~~ ^{the delivered} did not belong to some other person?

Ans. Because I contracted with Hughes to handle ^{all} his bark, ~~then he couldn't have any~~
And further this deponent said
not.
C. W. Allen.

The following deposition taken also by consent on March 2nd 1901 for defendant.)

J. W. Baker another witness of lawful case after first being duly sworn deposes & says:

Ques. State if you knew that the plffs

had bought all the bark that
J. P. Hughes delivered to you at
Pennington Gap during the year
of 1900?

~~Yes~~, Mr. Allen told me he had
made arrangements with Mr.
Hughes for his bark.

Ques. Did ~~Mr. Allen~~ represent that he
had bought ^{all} the bark that Hughes
would get out during the summer
of 1900 or ^{merely} that he had bought
Hughes bark.

Ans He just said that he had
made arrangements with
Hughes for his bark.

And further this deponent
saith not.

W. B. Baker

It is agreed that the statements made
in these ~~pages~~ shall have the
same ~~to~~ effect as if they were
sworn to & are to be read in evi-
dence in behalf of the respective parties for

whom they were taken.

Star Clothing & Shoe Co.
vs. Depositions

E. G. Saultbury
Filed ~~Feb~~ ^{and} March 2, 1901
A. B. Munnay Clk

Star Clothing & Shoe Co
vs { Notice to take
Depositions

E. G. Saulsbury & Co.

Legal service is hereby
accepted.

Thos. H. Gibson,
Counsel for Deft.

To E. G. Saulesberry & Co.

Take notice, that on the 24th day of December, 1900 at the office of J. B. Noel in the town of Pennington Gap in Lee County Virginia, between the hours of 8 o'clock A.M. and 6 o'clock P.M. of that day, we shall proceed to take the depositions of C. W. Allen and others, to be read in evidence in our behalf in the suit in equity depending in the Circuit Court of Lee County in which we are plaintiffs and you are defendants. And if from any cause the taking of said depositions be not commenced on that day, or if commenced, if they be not completed on that day, the taking of said depositions will be adjourned and continued from time to time at the same place and between the same hours, until they are completed.

Respectfully,

Star Clothing & Shoe Co.

Per Counsel

(1)

The depositions of C. W. Allen, J. M. Carter, B. N. Barnett, Arthur Rick, H. L. Sprinkle, J. W. Baker & N. J. Jackson taken before me, J. F. Shaggs, a justice of the Peace in and for the County of Lee, at the office of J. C. Noel in the town of Pennington Gap in the said County of Lee, pursuant to the notice hereto annexed, on the 23 day of December 1900, between the hours of 8 o'clock A.M. and 5 o'clock P.M. to be read in evidence in behalf of the plaintiff in a certain suit depending in the Circuit Court of Lee County wherein the Star Clothing and Shoe Co. is plaintiff and E. G. Salisbury is defendant Present E. W. Pennington & J. C. Noel for the complainants and J. H. Gibson for the Defts

C. W. Allen a witness of lawful age after being duly sworn deposes as follows:

Ques. Do you know the parties plaintiff and defendant in this suit.

Ans. I do.

Ques. At what business were the plaintiffs and defendants engaged say on Sept. 1st, 1900.

Ans. Just previous to that time, and possibly on that day, said plaintiffs were engaged in the mercantile business

the town of Pennington Gap, in county, Va., and the said defendants were possibly on that day, but had been for several months previous to Sept. 1st, 1900 engaged in the stove and tin bark business in and around Pennington Gap, Va.

Ques. 3 State your connection, if any, with the business of the plaintiffs.

Ans. I managed and conducted it principally from the time they ~~and~~ ^{commenced} business, which was something like a year ago, till they closed out sometime in Sept. 1900.

Ques. 4 State whether the firm of E. S. Saulsbury & Co is indebted to the said plaintiffs in any sum of money, if so what amount, and about when was it due?

Ans. Said defendants are indebted to said plaintiffs in the sum of \$101.30 as shown by the account filed with the bill of the plaintiffs, and it became due and payable about Aug. 29th 1900. This sum is still due and unpaid.

Ques. 5 State if you saw how it hap-

(3)

found said account was made with said Complainants?

Ans.

The defendants had a team here and it was driven by Chas. Owens. Mr. J. H. Baker, came and told me to let said teamster have corn and hay to feed the ~~the~~ team, and thereupon, I did let said Owens have the corn and hay charged in the account filed in said cause. The ~~the~~ orders charged in said account ~~was~~ for \$3.50 to Owens, and ~~on to~~ H. C. Parris for \$2.10, was given and signed by said Baker, but for Saultsburg also as I understood it; I have file said ~~the~~ orders marked "Orders" as a part of my depositions. The amounts shown to have been paid Arthur Kirk was for tax bark which I bought and paid him for, and under an agreement with said Baker for said defendants I turned the same over to them, and under this arrangement said defendants did get the identical bark I got from Kirk; it was inspected off the wagons by said Baker into the car; the said amounts were the amounts that said Baker gave me as to

(4)

what it came to. Baker told me, and held himself out here as being the agent of said defendants. After I had made this arrangement with said Baker, I saw said E. L. Sarsbury and told him of the agreement and arrangements made with said Baker for him, and he told me it was all right, that he would take all the tax bark I could get outside of his ~~own~~ contracts.

The foregoing answer so far as relates to corn & hay paid to Owens for teams is objected to as being immaterial. And so much thereof as relates to Arthur Kirk is objected to as being immaterial. And the whole answer is objected to because no connection is shown to exist between Baker & the parties to the contract as charged in the bill & it is therefore irrelevant.

Ans. 6.

I notice there is charged in the account filed ~~with~~ said bill an account of H. L. Sprinkle for \$15.00 and assigned by him to the plaintiffs; and a like account of John M. Carter for \$16.50 also assigned to plaintiffs, and account said to Roberts and Barnett for \$14.29. Please state what said defund.

(5)

ants owed each of said parties for and who engaged them to do the work?

Ans.

They owed Sprinkle & Carter for hauling saw-bark from the Geo. H. Pennington bark; I engaged them by said Baker's direction. I had an arrangement with said Baker for said defendants to pay the expenses of peeling and hauling all the bark they had contracted for, - I to pay them through the store, - and as I understood it the account of Roberts and Barnett ^{was} for sledding the bark out of the woods.

The foregoing question ^{answer} is objected to because immaterial & irrelevant.

Ques. 7

State whether either Sausberry or Moose had any knowledge that said Baker had made arrangements with you to see play ~~run~~ to haul and get out saw-bark; if no, ~~how~~ ^{do you} know that they or either of them had any such knowledge.

Ans.

On one occasion, this was before either Sprinkle & Carter did the hauling charged in said ac-

(6)

count, Mr. Soursberry came to the store of plaintiffs "and said to me, "You are not worth hell-money or you would have all the teams you could get to haul out my tar bark, that it was to my benefit to get the hauling done, as I could pay the men off in the store, and he would ^{pay} me the money" I then went with him to see some parties, but they would not agree to haul for the price he offered them per cord, and a little while afterward the ^{men of my camp} ~~men~~ ^{Soursberry} said they would raise the price, and told me to employ such men as I could get; I did as before stated employ said Sprinkles and Carter and they hauled for said defendants the amounts charged in said account as they reported to me, and I paid them severally the amounts charged.

Ques. 8. As a matter of fact, did not said defendants pay other accounts of the like kind as this sued on, at ~~at~~ various times?

Ans. Yes sir: they paid several hundred dollars; sometimes they paid me by check and sometimes by draft, which I drew on them.

(7)

It is here admitted that the defendants at the restitution of this suit were non-residents of this State and had effects in this county & State.

Ques. & That was the \$2.10 paid to Mr. Harris for and why have you got it charged to the defendants?

Ans. It was for bark, which I paid him ^{for} in the store, and I turned over the same bark to the defendants and they got it.

Cross

Ques. To what did your dealings with E. G. Salsbury & Co amount to i.e. as manager for the Stan Shoe & Clothing Co.?

Ans. Something like \$3000.

Ques. When did you begin to deal with E. G. Salsbury & Co. under the contract mentioned above?

Ans. April the 17th 1900 was the first thing I charged on the tank.

Ques. Against whom did you make the ^{on your books} change, Pennington or Salsbury & Co.?

Ans. I charged it to Pennington and to Salsbury & Co. To Pennington for the of keeping the account straight, I was looking to Salsbury & Co for the pay.

Ques. When was the first payment made to you, ^{and} by whom, under the contract mentioned above, & what was the amount?

Ans. March 29th 1900 J. W. Baker paid me a check for \$100.

Ques. Whose account did you credit with the \$100?

Ans. J. W. Baker's.

Ques. When was the next payment made & how much & by whom made?

Ans. April 12th 1900 J. W. Baker paid \$75.00 in the bank at Bennington Gap for me.

Ques. Whose account did you credit with the \$75.00?

Ans. J. W. Baker's.

Ques. When was the next payment made, by whom & how much?

Ans. Apr 28th 1900, J. W. Baker paid check for \$50.00.

Ques. To whom did you give credit for that amount?

Ans. J. W. Baker.

Ques. When was the next payment made, by whom & for what amount?

Ans. May 12th 1900, check for \$75.00 by J. W. Baker.

(9)

Ques How many payments were made to you by J. W. Baker, what were the amounts, ~~to~~ to whom did you give credit for them?

Ans. The amount that J. W. Baker paid me was \$1162.15. I gave credit for \$200 to J. W. Baker alone & the rest to J. W. Baker & E. J. Saulsbury & Co.

Ques In whose name were the checks mentioned above drawn?

Ans. J. W. Baker's.

Ques When did E. J. Saulsbury & Co make the first payment to you, how much did they pay you altogether & to whom did you give credit for such payments.

Ans. June 13th 1900 I drew a draft on E. J. Saulsbury & Co. for \$200; they paid me altogether \$2045.21; I gave credit to E. J. Saulsbury & Co for the \$2045.21.

Ques How were these payments made by E. J. Saulsbury & Co & how many checks did you receive, ~~and~~ how many drafts?

Ans By checks & drafts. I got \$509.66; \$54.46 in checks ~~and~~ \$97.20 discount allowed him ~~and~~ by drafts amounting to \$1383.95

Ques When was the last payment made to you by E. J. Saulsbury & Co. ~~and~~ by whom?

Ans. July 20th 1900 E. J. Saulsbury made the last personally.

(10)

Ques When did you first begin to charge items to the account of Baker & Saulsbury together?

Ans. May 15th, 1900. ^{and} it ended July 2nd 1900.

Ques When did you begin to charge items to the separate account of Saulsbury & Co?

Ans July 3rd 1900.

Ques Why did you first begin to charge items to Baker, then to Saulsbury & Co & Baker then to Saulsbury & Co?

Ans Baker was here doing business for Saulsbury & Co so I understood ^{and} he would draw drafts on Saulsbury & Co & deposit checks from Saulsbury & Co in the bank & then give his individual checks to me. After he ran business awhile in his (Baker's name) Saulsbury came up and wanted everything changed to Ely Saulsbury & Co. E. J. D & Co wanted his store tallies kept separate from the bank tallies & other expenses was why I didn't charge it to Ely, S. & Co, but charged it to Ely, S. & Co, J. W. Baker agent. This last was July the 20th 1900.

Ques On July the 20th 1900 did you have anything charged to the account of "Ely Saulsbury & Co, Agent, J. W. Baker" or was it all charged to J. W. Baker individually?

Ans It was charged to "Ely Saulsbury & Co, Agent, J. W. Baker."

Ques (1)

When did you begin to charge items to the separate account of E. J. Sausbury & Co?

Ans.

July 3rd 1900.

Ques

Is it not a fact that all these items were gotten by J. W. Baker on his own individual responsibility & under a contract made by him individually & were not the payments made to you by Sausbury & Co for J. W. Baker individually & not for themselves as principals of J. W. Baker, Agent?

Ans.

No sir.

The further cross examination of this witness is suspended.

Arthur Stirk another witness after being duly sworn deposes as follows:

Ques.

State whether C. H. Allen for the Star Clothing & Shoe Co, bought any tax bark of you? If so how much, and what became of the bark if you knew?

Ans.

He did buy some tax bark from me in May, 1900 if ^{I am} not mistaken. I am not positive about the date. It may have been earlier or later. I guess there was 7 or 8 cords of it. It was brought to the Station at Pennington Gap and loaded on the cars.

(12)

Ques From whom did you get the bark above mentioned?

Ans I peeled the bark; it was on our own land.

Ques Who paid you for it & how?

Ans Mr. C. W. Allen paid me for it. He paid me some money & some goods.

And further this deponent saith
witness also
so its not. Arthur Kirk

John M. Carter another witness of lawful age deposes as follows:
Ques. State whether you did any hauling of tan bark for the plaintiffs, if so, where, from where, and at what per load or day did you haul?

Ans. I did do some hauling of tan bark off the Geo. H. Pennington land in the Pocket at \$3.00 per day if I hauled two loads in one day, and \$1.50 if I only hauled one load per day. The hauling I did amounted to \$16.50 if I remember correctly. I can't remember the time I did the hauling, but it was some time in the summer of 1900. I was paid by the plaintiffs for my hauling. Foregoing ques. & ans. objected to because immaterial.

Ques. 2 State whether you ever

(13)

heard E. S. Saulsbury have any conversation with C. W. Allen about him employing men to haul out the bark he had in the Pocket; if so, state as near as you can, what he said.

ans.

In the store of the plaintiffs I heard Mr. Allen and Mr. Saulsbury have a conversation about getting his bark in; he said something to Mr. Allen about shoving the bark in, that he wanted it out to the railroad.

ques. 3

State whether you know of H. C. Sprinkler, hauling any tree bark from the G. H. Pennington land to the railroad, if so when was it?

ans.

His team did haul some a bout the same time I hauled, but I don't know how much he hauled.

claimed

50¢

Further this deponent says not.
J. M. ^{his} _{mark} Carter

The deposition of C. W. Allen resumed.

Ques

~~On or about the date that Mr. Saulsbury~~
Did not Mr. Saulsbury sometime last summer, about June 2nd or 3rd, possibly, notify you in the plaintiffs store in Pennington's Gap, tell you not to let anyone have anything or to charge to him any amount for bark, staves or anything thing else, unless you had an order

(14)

"O.K." by D. S. Forrester, or something to that effect?

Ans. ~~At~~ He did at one time.

Ques. Was it not at the time he settled his account?

Ans. I don't know.

Ques. Did not Mr. Sausbury tell you on the yards at Pennington Gap, in the presence of D. S. Forrester, not to pay any amount to any person on his account that was not "O.K." by D. S. Forrester ^{and} did he not tell Mr. Forrester at the same time to not "O.K." anything ~~for~~ ^{for whom he had not employed himself} any one ~~else~~. This was sometime in June, about the 18th. And at the same time did not Mr. Sausbury tell you he would not pay anything that was not "O.K." by Mr. Forrester?

Ans. He told me that at one time. I couldn't state the place.

Ques. Did you not pay off the amounts mentioned above after that conversation, upon your own responsibility, without the "O.K." of Mr. Forrester?

Ans. No sir. I did not. The conversation took place after I paid the amounts sued on.

Ques. When did the conversation mentioned in answer to question No. 5 take place, Where (and) who all were present?

Ans. It was in plaintiff's store, I don't know the time. It was in bark season, I don't remember who were present.

Ques

Was it before or after Mr. Daulsbury told you not to pay any orders that were not "O.K'd" by L. D. Forrester? If before how long?

Ans.

Before. I don't remember how long. ~~And further this deponent said~~
~~not.~~

The taking of the depositions of C. H. Allen is again suspended.

B. H. Barnett another witness duly deposes as follows:

Ques.

State whether the plaintiffs paid you and H. M. Roberts any sum of money if so how much, and for what was it paid.

Ans.

They paid me and Roberts \$14.28; for making two bark out of the woods. Before I did any thing towards the work J. H. Baker told me he would pay the expenses through the plaintiffs; he said he had arrangements with the plaintiffs to get what he wanted. I think the work I did was sometime in

July, 1900.

Ques.

With whom did you have contract to haul & snake the bark above mentioned?

Ans.

H. M. Roberts first had contract with J. H. Baker to do the work and I entered in and did the work in his place.

(16)

Ques - About what time did you make your contract with Roberts?

Ans - I think it was sometime in the latter part of June.

Ques - When did Mr. Baker tell you he would pay the expenses through the plaintiffs? Was he present at the time you contracted with Roberts.

Ans - Sometime after the contract with Roberts was made. Baker was not present.

Claimed 5000
Ans - And further this deponent saith not.
B N Barnett

The further taking of these depositions are adjourned until Wednesday, Dec. 28th, 1900 at the same place mentioned in the caption. Given under my hand this the 24th day of Dec. 1900

J. H. Skaggs J.P.

H. L. Sprinkle, another witness of lawful age being duly sworn, deposes

Pursuant to adjournment the further taking of these depositions is resumed, this Dec. 28, 1900.

J. H. Skaggs J.P.

H. L. Sprinkle, another witness of lawful age, being duly sworn, deposes and says:

Ques!! Please state your age residence and occupation
My age is 40, I reside at Pennington Gap Lee County Virginia, and have been up to the present a hauling lumber.

(17)

Ques

Please state whether in the summer of 1900, you hauled any tan-bark for the defendant, E. G. Saulesberry & Co. and if so, how much?

Ans

I did, I hauled twelve loads for them.

Ques

When was this hauling done, and where from?

Ans

I think it was ^{from the 15 to the last of August} in July, 1900, and hauled from the Pocket Country, and was a part of the G. W. Pennington Bark.

Ques

Who employed you to do the hauling, and how much were you to be paid for same?

Ans

G. W. Allen made the contract with me to do the hauling, and I was to be paid \$1.50 per load for the hauling, which amounted to \$18.00 for the twelve loads.

Ques

Who paid you for hauling said tan-bark, if you have been paid therefor?

Ans

G. W. Allen paid me all but \$2.82 in supplies at the Plaintiff's store, and I assigned my claim to the said G. W. Allen. which assignment is the same as is filed with the papers in this case. The foregoing answer so far as relates to assignment is objected to because immaterial.

Ques

Please state whether or not you ever heard a conversation between G. W. Allen, and E. G. Saulesberry in which said Saulesberry directed the said G. W. Allen to employ teams to haul the G. W. Pennington tan-bark? and if so please state when and where it was?

Ans.

I did, The conversation occurred in Pennington.

leaf, on the side walk in front of Barkers store. Mr. Saulesberry told C.W. Allen that he must-hurry about and get some teams, and get that stuff out of there. They were talking about the G.W. Pennington tan bark.

Saulesberry said you can get it out. This conversation occurred just a few days before C.W. Allen employed me to haul bark, and it was just a few days before my team began to haul for the defendants.

And further this deponent says he not-

Notes 50

H. L. Sprinkle

Cross examination of C.W. Allen resumed.

Ques. When did the conversation mentioned in the answer to question 7 take place, - before or after Mr. Saulesberry told you not to pay anything that was not "O.K." by D.S. Forrester? Who were present & where was it.

Ans. It was after. I do not know who were present. We were at the store - we came down in front of Barkers store & met Harve Sprinkle & a fellow by the name of Bowman and tried to employ them to haul.

Re-examined

Ques. Can you tell about the time when you contracted with Arthur Sick for the bark you

got from him? If so, give the date as near as you can.

Ans.

I can't give the date; but I made the contract with him to take his bark before it was pulled. The pulling is generally in May, June & July.

ques. 2

You have stated in your examination in chief that you made your agreement with J. W. Baker to ^{to take} take for the defendants for all the ton bark you could buy outside of their own contracts, and that you afterwards saw Mr. Saulsbury and told him of your agreement with Baker for him, and he said to you it was all right; now at the time you had this conversation with Mr. Saulsbury, had you then contracted with Kirk for his bark, or did you contract with Kirk after seeing Saulsbury.

Ans.

I contracted with Kirk for his bark after agreeing with said Baker to take it, and before I saw Saulsbury.

ques. 3

Had Saulsbury also, any contract with Kirk for his bark that you got?

Ans.

No, Sir.

ques. 4. What was the price per cord or ton, Soulebury & Co, were to give you for the bark you bought and let them have?

ans. Six dollars per cord, or that price for 2400 lbs. which they counted as a cord.

ques. 5 Is that, or \$6⁰⁰ per cord of 2400 lbs. the price you have charged in ~~the~~ the account filed in this cause?

Ans. No! It did not average \$6⁰⁰. It was for prime bark they were to pay \$6⁰⁰ per cord.

ques. 6 Who inspected, and graded the Kirk ton bark?

ans. J. H. Baker, I think.

ques. 7 Did he furnish you with his grade or inspection, and is it charged in the account ~~and~~ according to his inspection?

ans. Baker furnished me with the inspection and it is charged as he furnished it to me.

ques. 8 Did you ever make demand on the defendants for the payment of the account and upon, and did they refuse to pay it; if they did refuse to pay, what reason ~~did~~ was assigned for failure to pay it?

ans. I did ask E. S. Soulebury to pay the

(41)

Virginia, Lee County Court:

account and he refused to pay it. He said he had lost enough money on S. Th. Pennington and he was not going to pay any more. Objected to because not against interest.

ques. 9.

State whether the defendants paid you any sum of money on order on or on any account after he told you not to charge to him any thing that was not "Ordered" by D. S. Forister, and which ~~at that~~ had not previously been ~~charged~~ "Ordered" by said D. S. Forister?

ans.

Yes Sir, they did; by E. S. Saultsbury. I think the \$54.40 and also \$23. and something.

The foregoing question & answer are objected to because immaterial.

ques. 10

In the \$23. + that they paid you, is it not a fact, that corn and hay to feed the same team which you have corn and hay charged in the account and on, constituted a part of it.

ans.

It is. The above question & answer objected to because immaterial. ques. 11. Soon after Saultsbury told you & not to charge any thing to his account unless "Ordered" by D. S. Forister, did not said D. S. Forister leave Pennington Gap, and go to Ky., and has

(72)

not said Forister been in Sky
ever since?

Ans.

He did leave here, and
as I understood went to Sky,
and has been there ever since
except he has been back on
a visit a time or two.

Ques. 12

Did Saulsbury leave any
one in Peerington Gap in
charge of his business, after
Forister left here. If so, who?

Ans. 1

He left J. H. Baker

The two previous questions
and answers are objected to
because immaterial.

Ques. 13

Has not the entire account
sent out, made after D. S. For-
ister left here?

Ans.

It was; unless a few of Spierbills
and Carters loads was hauled ~~by~~
while Forister was here.

The foregoing questions & answers are
objected to because immaterial.

Ques. 14

Who had charge of the defendants
business here after Forister left
and while said account was being
made?

Ans.

J. H. Baker

Xenopus

Ques

Were any of the items charged in the bill
"oked" by D. S. Forrester?

Ans

No.

(23)

and further this deposition is sworn to with
not. C W Allen

J. W. Baker, another witness of
lawful age deposes as follows.

ques. 1 What is your present residence
and occupation?

ans. I live in Pennington Gap, and am
stove dealer.

ques. 2 Have you ever been in the em-
ploy of E. S. Saulsbury? If so how
long and what were your duties
and authorities?

ans. I was in their employ from Oct.
1899 to Oct. 1900. Most of the time
at Pennington Gap. I had gener-
al supervision of their business
at Pennington Gap. I had authority
from them to buy stoves and stove-
bark; and for them did buy stoves
and stove-bark.

ques. 3. Do you remember Saulsbury the
having a team here at Pennington
Gap in summer of 1900, driven by
Charles Owens as teamster.

ans. I remember buying a team for
another person and took it back
for the defendants. I intended the
team for them if they were satis-
fied with it. I suppose they were
satisfied with it, for when I told
Mr. Saulsbury what it cost, he took

(24)

it, and sent it to Flat Rock, Ky.
It was driven here by Charles
Owens.

Ques. 4. Objected to because immaterial.
Then did you turn this team
over to Mr. Sausbury?

Ans. I don't know, but probably
along about Sept. 1st, 1900.

Ques. 5. While this team was here, state
whether you directed Mr. C. H.
Allen, who was attending the store
of the plaintiffs, to let the driver
have corn and hay to feed it with.

Ans. I did.

Ques. 6. To whom did you tell him to
charge the corn & hay?

Ans. I don't know as I told him.

Ques. 7. Do you remember Mr. Sausbury
coming to Livingston Gap and
settling his account ^{with the plaintiffs} and at the
same time had transferred from
the account of "E. G. Sausbury
v. agent J. H. Baker," \$23.67
to the account of E. G. Sausbury v. ^{agent}

Ans. I don't say that I do the transfer, but
do remember him coming ^{settling up} as a ^{plaintiff}

Ques. I now show you the account ^{of}
of E. G. Sausbury v. agent J. H.
Baker and the account of E. G.
Sausbury v. ^{agent} do you there not ap-
pear a credit of \$23.67 on the
account of "E. G. Sausbury v. agent
J. H. Baker and a like charge on

ques.

State, if you know, whether Arthur Kirk ever delivered any tan bark in Peerington Gap in the Summer of 1900, if so, state all you remember about it?

ans.

All I know about it is, that wagons brought in bark to the railroad, and said it belonged to Arthur Kirk. I inspected and graded a part of it if not all, and furnished Mr. A. H. Allen statements of the same, its tally. This bark was shipped with ~~and~~ that of the defendants and they got the benefits of it.

ques.

Have not you and Mr. Allen gone over his books, and did you not find the Kirk bark and corn & hay, and the Owners ^{only} \$3.50, proper & correct charges.

ans.

I did go over his books with him, and I saw nothing wrong in said charges.

ques.

Adjourned till to morrow morning
This the 28th day of Dec. 1900.

J. F. Skaggs J. P.

Pursuant to adjournment the further taking of these depositions is resumed this 29 day of December 1900.

J. F. Skaggs J. P.

(27)

Ques

While you kept the said team and while the same was being driven by Charles Owens, for whose benefit was said team used, for yourself or for E. G. Saulsbury & Co.?

Ans.

It was used for E. G. Saulsbury & Co. altogether. We used it on the yard and at the plant for the defendants benefit without any charges for myself.

Ques

Were the items for corn and hay, charged on the books of the Plaintiffs against the defendants, got for said team while said team was being so used for defendants?

Ans.

They were.

Ques.

Please state if you know when D. S. Forester left Pennington Gap Va. to do business for defendants in Ky?

Ans.

I think it was from the 5 to the 10 of August 1900

Ques

Before this was he not sent to Ky. for some two weeks before August 5-1900 by the defendants?

Ans.

I do not know. I know however that the first bark I weighed and inspected was Aug 2nd 1900, after I came back from the plant. While I was at the plant D. S. Forester had charge of the defendants business at Pennington Gap. My books show that I again took charge of the yard at Pennington Gap Aug 2, 1900, and D. S. Forester was preparing to go to Flat-Tick Ky for the defendants.

After August 2nd 1900, who had charge of the defendants business at Pennington Gap Va.

(28)

You or D. S. Forester?

Ans

I had charge of the defendant's business at Pennington Gap Va. from Aug. 2, 1900 till the end of Sept-1900.

Ques

Did the Plaintiffs furnish the defendant any lumber through Henry Parrie about Aug 29, 1900?

They did 1930 lbs at \$3.00 per cord of 2400 lbs.

Ques

Did you as agent of the defendant authorize the ~~defendant~~^{Plaintiffs} to pay N. M. Roberts and his peeler, for peeling the G. W. Pennington lumber?

No, but as Agent of the defendant, I had a contract with N. M. Roberts for bark, and authorized the plaintiffs to pay him for the peeling, and N. M. Roberts contract was turned over to B. N. Barnett to finish up.

Crop - ex -

Ques 1

About what time did you begin dealing with the Star Shoe & Clothing Co.?

Ans.

March or April 1900

Ques 2

Was anything said at the time about the persons or firm for whom you were acting as agent? If so what?

Ans.

Mr. ^{C. W.} Allen offered me some for my bark contracts & I told him no that I wouldn't do it; that I was working for the Company. I believe I said that "when I work for a man, I work for him". Before that time

(29)

he asked me if I were interested in it & I told him no - none more than representing the Company E. G. & Co.

Ques 3 Was anything said as to whom Mr. Allen was to make his charges against in the dealings above referred to, or if so, what?

Ans. I can't say that we did.

Ques 4 Is it not a fact that he began his account with you ^{on his books} individually, and did you not pay him from your own bank account?

Ans Yes sir. I was running a bank account with the money furnished me by the company. I paid this account off with that money - i.e. apart of this money I paid ~~Ques 5~~ out of my account mentioned above and Daulsbury paid the rest.

Ques 5 Up to what time did Mr. Daulsbury square the account.

Ans I think it was July the 3rd.

Ques 6 Was the account run in your name on the plaintiffs books up to that date?

Ans - Yes sir.

Ques 7 When Mr. Daulsbury made the settlement on July the 3rd. was anything paid by Mr. Daulsbury to the plaintiffs or their agent Mr. Allen?

Allen, about who should "O.K." all future items before they (the plaintiffs) were authorized to charge said items the account of E. G. Saulesbury & Co & if so what was it?

Ans Mr. Saulesbury told Mr. Allen not to pay anything that was not "O.K." by D. D. Forrester. I was going away & he was leaving the business here with Mr. Forrester.

Ques 8 When you went over the books with Mr. Allen and saw the Kirk bark, corn & hay ^{and} \$3.50 order did you remember that the charges were correct at the time they were made.

Ans. I couldn't answer definitely, but I believe they are correct.

Ques 9 ~~When Mr. Saulesbury settled your account above referred to on July 3rd~~
Re-examined.

In answer to Ques 7, in your ~~x~~ examination you said Mr. Saulesbury told Mr. Allen to pay nothing more that was not "O.K." by Mr. Forrester as you were going away? Please state where you went and why? and when you come back?

I was in the mountain at the stove plant of E. G. Saulesbury and Company doing business for them there! and I was still there until Aug 2, 1900. and then

(31)

and then I again took charge of the yard and the work that Mr. Forester had while I was with the store plant.

Ques

X - examination resumed

Did Mr. Daulsbury or E. J. Daulsbury & Co. place the "O.K."ing of all orders in Mr. D. S. Forester's hands & notify the merchants with whom the Company was dealing in Pennington Gap not to pay off anything that was not "O.K."ed by Forester? And were not the items charged in plaintiff's account "O.K."ed by you against the directions & authority of E. J. Daulsbury & Co.

Ans.

No. I had the right to transact this business while I was here.

Ques

Did Mr. Daulsbury or E. J. Daulsbury & Co. not direct you not to "O.K." orders to the plaintiff's store after your account was settled on July 3rd 1900? or at any other time.

Ans

When that settlement of July 3rd was made he did not direct to not "O.K." any more orders to the plaintiff; but when the business was moved to J. R. Gibson & Sons. he told me to give no more orders. and I told him that I would give some more orders to Allen & he did not object or say anything and he knew I was giving orders there after that time.

And further this deponent saith not.

J. R. Gibson

(32)

A. J. Jackson another witness of lawful age being duly sworn deposes and says:

Ques

About July 1900, did you hear E. G. Saulesberry authorize E. W. Allen to employ teams to haul the tan-bark of E. G. Saulesberry & Co, out of the mountain to the railroad at Pennington Gap, if so please state when and where it was at?

Ans

I think I did. It was over here at Barkers store some time about July 1st - 1900, Mr Allen called me to come to him and Mr Saulesberry, and they asked me if I could not take my team and go to work and help haul the tan bark. I told Mr. Saulesberry that I did not think there was pay enough in it; Saulesberry says go ahead and try, and if it does not pay you, I will give you more, I must get it out. Mr. Saulesberry told Mr. Allen to get teams and have it hauled out. Mr. Saulesberry then said to me I think you can make good wages at the price. A few days afterwards Mr. Allen told me that Saulesberry had agreed to pay the price I asked, and I went to hauling. Mr Allen settled with me for the bark I hauled.

And further this deponent says not.

A. J. Jackson

(23)

J. W. Baker recalled.

2ues

When ^{you} Mr. Daulsbury had the conversation in regard to your not giving any more orders ~~to the plaintiffs~~ ^{to plaintiffs} ~~store~~ who were present, where was it & give the date as near as you can?

I do not know who were present. I do not remember the exact place but it was in Pennington Gap somewhere. I don't remember the time exactly, but it was ^{about} after the ^{time} business was moved from the plaintiffs store.

And further this deponent saith not.

Virginia Lee County, Va.

I J. H. Skaggs, a Justice of the Peace in and for the County of Lee in the State of Virginia do certify that the foregoing depositions of L. W. Allen, J. M. Carter, B. H. Barnett, Arthur Kirk, H. L. Sprinkle, J. W. Baker and A. J. Jackson were duly taken sworn to and subscribed before me at the place and times mentioned therein and in the Caption thereto, pursuant to the annexed notice.

In witness whereof I have hereto set my hand and seal, on this the 29 day of December 1900, at the County Lee aforesaid.

J. H. Skaggs J. P. Seal

Star Clothing & Shoe Co
vs } Depos

E. G. Saulsbury et al

Received from J. F. Skaggs
the J. P. before whom
taken & filed Jan 17, 1901

A. B. Munsey Clerk

J. F. Skaggs

J. P. 15 hours @ 75¢ per hour

\$10.25-

J. M. Carter wit 1 day 50

H. L. Sprinkle 1 day 50

J. W. Baker 1 day 50

A. J. Jackson 1 day 50

L. M. Allen 2 days 100

\$13.25-

Aug 11/100

C. M. Allen

pay Chas Owens

\$350 for 10.0000

ten

W. B. Allen

Dec 11/1894
~~to the~~
~~of the~~

E.W.PENNINGTON.

ROBT. L.PENNINGTON.

Pennington Bros.

ATTORNEYS AT LAW,

JONESVILLE AND PENNINGTON GAP, VA.

Maker Order

\$ 3.50

Know all men by these Presents:

That I H. L. Sprinkle do hereby assign to C. W. Allen a claim of fifteen dollars that I have against E. G. Salesbury & Co. due me for hauling ten loads of the G. W. Pennington timber to Pennington & Co. during the summer of 1900.

Given under my hand this 1st day of Oct. 1900.

H. L. Sprinkle

Know all men by these Presents:

That I John M. Carter for value received do hereby assign unto C. W. Allen, a claim of sixteen dollars and fifty cents, which I have against E. G. Salesbury & Co. due me for hauling timber for said Salesbury & Co. on the G. W. Pennington timber during the summer of 1900. Given under my hand this the 1st day of Oct. 1900.

John M. Carter

Know all Men by these Presents, That we, A. M. Miller
and E. H. Pennington
are held and firmly bound unto E. G. Sansbury & Co
in the sum of Two hundred & two & 00/100 Dollars, to the payment whereof we bind
ourselves, our heirs, executors and administrators, jointly and severally firmly by these presents. We
hereby waive the benefit of our homestead exemption as to this obligation, and also any claim or
right to discharge any liability to the Commonwealth arising under this bond, with coupons detached
from the bonds of this State.

Witness our hands and seals this 10th day of Oct 1900

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas A. B. Mundy
Clerk of a justice of the peace for the Circuit Court for La Co
did on the 10th day of Oct 1900 on the complaint of the above bound
the Star Clothing & Shoe Co on oath, issue an attachment in favor of the said
Star Clothing & Shoe Co, against the estate of E. G. Sansbury
and R. B. Moore doing business under
the firm name of E. G. Sansbury
& Co for \$101.30
the amount of the claim of the said Star Clothing & Shoe Co, specified in said
attachment and sworn to on oath by the C. H. Allen who
also made oath to the justice of the said claim, which attachment is returnable
the 1st Rules in Nov. 1900

Now, THEREFORE, if the said Star Clothing & Shoe Co
shall pay all costs and damages which may be awarded against them or sustained by any
person by reason of them suing out the said attachment, then the above obligation to be
void, otherwise to remain in full force.

A. M. Miller
E. H. Pennington (Seal)
SEAL
SEAL
SEAL

Executed in the presence of

Star Clothing Store

to

}

ATTACHMENT

BOND.

E. G. Sam. Lury & Co.

Know all men by these presents, That we, E. S. Saulsbury and R. B. Moore partners in the Tanbark and Stave business under the firm name and style of E. S. Saulsbury & Co., and Olin O. Gibson are held and firmly bound unto James M. Allen and A. M. Miller late merchants in Trade under the firm name of Star Clothing and Shoe Co., in the just and full sum of (\$202⁶⁰) Two hundred and two dollars and sixty cents to be paid to the said James M. Allen and A. M. Miller aforesaid; and we each hereof waive the homestead exemption.

Sealed with our seals and dated this 22 day of October 1900.

The condition of the above obligation is such that, whereas the said James M. Allen and A. M. Miller aforesaid did on the 9th day of October 1900, sue out an attachment in a chancery suit in the Circuit Court of Lee County, Virginia against the personal estate of the said Saulsbury and Moore for ^(\$101³⁰) the balance of an account claimed by said Allen and Miller against said Saulsbury & Moore; which said attachment is directed to the sheriff of Lee County, Virginia, and is made returnable to the Circuit Court Clerk's office of said county at the 1st rules in Nov. 1900; and

whereas, the following property of the said
Saulsbury & Co has been by the Sheriff
of the said county seized by virtue of
said attachment, to-wit: One pile of staves
in the Town of Pennington Gap, on the
yards of said, Saulsbury & Co. ^{and} The said
Saulsbury & Co are desirous of having the
same returned to them; now, therefore, if
the said Saulsbury & Co. shall perform
such decree as may be rendered by the
court in said suit and attachment
of the said Star Clothing & Shoe Co.,
then the above obligation is to be
void, otherwise to remain in full
force.

A. G. Saulsbury & Co

Olen C. Gibson

Seal
Seal

Star Clothing & Shoe Co.,
at 3 Forthcoming Pond.

E. G. Salsbury & Co.,

In the Clerk's Office of the Circuit Court of the County of
Lee on the 10th day of October 1900.
James M. Allen and A. M. Miller late Merchants & partners
under the style and firm name of the Star Clothing &
Shoe Co. Plaintiff S,
against

In Chancery

E. G. Saulsberry & R. B. Moore partners in trade under the
style of E. G. Saulsberry & Co. Defendant S.

The object of this suit is to recover from the said defendants the sum of \$101.30
with interest thereon from the 29th day of August 1900, till paid,
and to attach a sufficiency of the estate of said defendants in Lee
County to pay the same & the costs of this suit.

And an affidavit having been made and filed that the defendant S. E. G. Saulsberry and
R. B. Moore
are not residents of the State of Virginia, it is ordered that they do appear here within fifteen days
after due publication hereof, and do what may be necessary to protect their interest in this suit. And
it is further ordered that a copy hereof, be published once a week for four weeks in the South West
Virginian, and that a copy be posted at the front door of the court-house of this County
on the first day of the next term of the Circuit Court.

A copy—Teste:

Permington Bras p. q.

A. B. Mursey Clerk.

Star Clothing + Shoe Co

vs. }

ORDER OF
PUBLICATION.

E. G. Saulsberry + Co

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU THAT YOU SUMMON E. H. Saulsberry and R. B. Moore
partners under the firm name and style of E. H.
Saulsberry & Co.

to appear at the Clerk's office of the Circuit Court of the County of Lee at the court-house thereof, at the Rules to be hold-
den for said Court, on the 3rd Monday in October 1900, ~~189~~, to answer a

bill in chancery, exhibited against them in our Court by

James M. Allen and A. M. Miller late Merchants
and partners under the style and firm of the
Star Clothing & Shoe Co. And have then there

this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the 10th day of
October 1900 ~~189~~, and in the 12^a year of the Commonwealth.

A. B. Munsey Clerk.
A copy—Teste: A. B. Munsey Clerk.

The plaintiffs in this suit having made affidavit as required by law; It is hereby ordered that the officer to whom this writ is directed do attach the estate of the defendants; or so much thereof as may be necessary to satisfy the amount of \$101.30 with interest thereon from the 29th day of August 1900, claimed in this suit and the subject keep to answer the future order of the Court, This the 10th day of October 1900

A. B. Munsey Clerk

SUBPOENA
VS. { IN CHANCERY.

p.q.

To Rules.

CIRCUIT COURT.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU THAT YOU SUMMON E. H. Saulsberry and R. B. Moore
partners under the firm name and style of E. H.
Saulsberry & Co.

to appear at the Clerk's office of the Circuit Court of the County of Lee at the court-house thereof, at the Rules to be hold-
den for said Court, on the 3rd Monday in October 1900, ~~1899~~, to answer a

bill in chancery, exhibited against them in our Court by
James M. Allen and A. M. Miller late merchants
and partners under the style and firm of the Star
Clothing & Shoe Co. And have then there

this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the 10th day of
October 1900 ~~1899~~, and in the 12th year of the Commonwealth.

A. B. Munsey Clerk.

A copy—Teste: _____ Clerk.

The plaintiffs in this suit having made affidavit as required by law: It is hereby ordered that the officer to whom this writ is directed to attach the estate of the defendants, or as much thereof as may be necessary to satisfy the amount of \$101.30 with interest thereon from the 29th day of August 1900, claimed in this suit, and the subject keep to answer the future order of the Court, this the 10th day of October 1900

A. B. Murray Clerk

Star Clothing Co
J. M. Allen et al
VS. { SUBPOENA
IN CHANCERY.

E. H. Saulsberry et al

Pennington Bros. p. q.

To 2nd October Rules.

CIRCUIT COURT.

For W. J. Withgate
Dece Lee.
J. P. Lee et al.
11th, 1900

This attachment presented on the 11th day of Oct. 1900 at 8 A. M., by bringing on a quantity of boxes of shoes in lot bought in Springfield Mo., and returned at about 7:00. on the property of E. H. Saulsberry et al. Also further returned on the 11th day Oct. 1900 by delivering to J. P. Lee a true copy of the attachment in summons and order of attachment in and thereon. This Oct. 11th, 1900

CERTIFICATE OF
ORDER OF PUBLICATION.

I, A. M. Goins, Editor of the SOUTH-
WEST VIRGINIAN, a weekly newspa-
per published at Jonesville, Lee County,
Va., do hereby certify that the annex-
ed notice was published in said paper
once a week for four successive weeks,
commencing on the 18th day of

Oct., 1900.

A. M. Goins, EDITOR.

FEE, \$6.60.

Order of Publication.

VIRGINIA.—In the Clerk's Office of
the Circuit Court of the County of
Lee on the 10th day of October, 1900.

James M. Allen and A. M. Miller,
late merchants and partners under
the style and firm name of the Star
Clothing & Shoe Co., Plaintiffs,
against

E. G. Saulsberry and R. B. Moore,
partners in trade under the style of
E. G. Saulsberry & Co., Defendants.

IN CHANCERY,

The object of this suit is to recover from
the said defendants the sum of \$101.30
with interest thereon from the 29th day of
August, 1900, till paid, and to attach a suf-
ficiency of the estate of said defendants in
Lee County to pay the same and the costs
of this suit.

And an affidavit having been
made and filed that the defendants E. G.
Saulsberry and R. B. Moore are not resi-
dents of the

State of Virginia, it is ordered that they
do appear here within fifteen days after
due publication hereof, and do what may
be necessary to protect their interest in
this suit. And it is further ordered that a
copy hereof, be published once a week for
four weeks in the Southwest Virginian,
and that a copy be posted at the front door
of the court house of this County on the
first day of the next term of the County
Court.

A copy—Teste:

A. B. MUNSEY, Clerk.

Pennington Bros. p. q. 10-18-00-4w

ORDER OF PUBLICATION.

Geo. M. Allen et al.

VS.

IN CHANCERY.

E. G. Saundersberry et al.

FEE \$6.60

Plffs Costs

Clerk 5.62
 Tax 1.50
 Shff 1.00
 Printer 6.60
 atty 15.00
 J P 10.25
 Roots 3.00

~~\$22.97~~
~~\$15.50~~
~~\$44.52~~

Defts Costs

Clerk 80^c
 NP 75^c
 \$1.55

Star Clothing & Shoes

vs } Bill in Chanc

W. L. Sautsbury & Co

1900, 2nd October rules Bill
 Sps accepted attachment levied + D. N.

" 1st November rules taken
 the last Monday in October
 D N Confd + Cause set for
 hearing

March Term 1901 Decree find
 Order Book No 6 Page 534